

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JOE HAND PROMOTIONS, INC.,

Plaintiff,

v.

Case No. 6:19-cv-516-Orl-37EJK

GILSON MORTIMER,

Defendant.

ORDER

Plaintiff Joe Hand Promotions, Inc. sued Defendant Gilson Mortimer for purported violations of the Communications Act of 1934, including satellite and cable piracy under 47 U.S.C. §§ 553 and 605, and copyright infringement under 17 U.S.C. §§ 106 and 501.¹ (*See* Doc. 10 (“**Complaint**”).) As relief, Plaintiff seeks statutory damages and attorney’s fees and costs. (*See id.* ¶¶ 21, 25.)

Defendant failed to appear, so Plaintiff successfully obtained entry of default against it. (Docs. 28, 29.) Now Plaintiff requests default judgment against Defendant, seeking damages solely under the Communications Act. (Doc. 35 (“**Motion**”).) On referral, U.S. Magistrate Judge Embry J. Kidd recommends the Court grant the Motion in part. (Doc. 36 (“**R&R**”).) Magistrate Judge Kidd found Plaintiff alleged Defendant willfully violated 47 U.S.C. § 605 but did not establish entitlement to the total damages,

¹ Plaintiff also sued Café Kreol & Bar Corporation but voluntarily dismissed the claims against it on April 14, 2020. (Docs. 33, 34.)

fees, and costs requested. (*Id.* at 4–9.) Instead, Plaintiff only established entitlement to \$3,700 in statutory damages, \$11,100 in enhanced statutory damages, \$1,500 in attorney’s fees, and \$525 in costs. (*Id.* at 6–9.)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan 28, 2016); *see also Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding no such error, the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Judge Embry J. Kidd’s Report and Recommendation (Doc. 36) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff’s Motion for Default Judgment (Doc. 35) is **GRANTED IN PART AND DENIED IN PART**:
 - a. The Motion is **GRANTED** to the extent the Clerk is **DIRECTED** to enter default judgment for Plaintiff Joe Hand Promotions, Inc. and against Defendant Gilson Mortimer.
 - b. Plaintiff is **AWARDED** statutory damages under 47 U.S.C. § 605(e)(3)(C)(i)(II) in the amount of **\$3,700**; enhanced statutory damages under 47 U.S.C. § 605(e)(3)(C)(ii) in the amount of **\$11,100**; and attorney’s fees and costs under 47 U.S.C. § 605(e)(3)(B)(iii) in the amount of **\$2,025**.
 - c. In all other respects, the Motion is **DENIED**.

3. The Clerk is **DIRECTED** to close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on May 11, 2020.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record